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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,161

04/16/2007

Evipides Drakos

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26111

7590

02/26/2010

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
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EXAMINER

AMINZAY, SHAIMA Q

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

02/26/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,161	Applicant(s) DRAKOS, EVRIPIDES	
	Examiner SHAIMA Q. AMINZAY	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8 and 10-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-2, 4-8, 10-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Reopening of Prosecution After Appeal Brief or Reply Brief. In view of the **supplemental appeal brief** filed on 12/03/2009, PROSECUTION IS HEREBY **"REOPENED"**. Election/Restriction set forth "below."

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under "37" CFR "1.111" (if this Office action is non-final) or a reply under "37" CFR "1.113" (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under "37" CFR "41.31" followed by an appeal brief under "37" CFR "41.37." The previously paid notice of appeal fee and appeal brief fee can be applied to the new "appeal." If, however, the appeal fees set forth in "37" CFR "41.20" have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously "paid."

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Examiner Note:

Claims 1-2, 4-8, 10-26 are pending, and claims 3, 9, 27 are cancelled previously.

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-2, 4-8, 10-22, and 24-26:** independent claims 1, 16, 24, 26, dependent claims 2, 4-8, 10-15, 17-22, and 24 are drawn to “**Remote control of distribution**”, classified in class **455**, and subclass **3.03**.
- II. Claim 23:** independent claim 23 drawn to “**Earth Science**”, classified in class **702**, and subclass **2**.
2. The inventions are distinct, each from the other because of the following reasons:
- Inventions **I** and **II** are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have **different functions, different modes of operation, and different effects**.

Invention “**I**” relates to “**Remote control of distribution**”, a user terminal receiving **signal** that is **remotely** controlled.

Invention “**II**” relates to “**Earth Science**”, monitoring the **earth’s atmospheric properties** are being **configured** using diverse stations.

That clearly indicates that the two inventions have different functions and different

modes of operation as well as different effects.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and because the search required for invention **I** is different from the search required for invention **II**, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventor ship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventor ship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaima Q. Aminzay whose telephone number is 571-272-7874. The examiner can normally be reached on 7:00 AM -4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mathew D. Anderson can be reached on 571-272-4177. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/SHAIMA Q. AMINZAY/

Examiner, Art Unit 2618

January 22, 2010

/Matthew D. Anderson/

Supervisory Patent Examiner, Art Unit 2618